IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

WRIT PETITION NO. 4500 OF 2004

Shamrao N. Shinde .... Petitioner

versus

Janata Shikshan Sanstha & ors..... Respondent.

Shri M.G.Kulkarni for the petitioner - absent.
Shri Mohan Pungliya for Respondents 1 to 3.

CORAM; A.P. DESHPANDE, J.
DATED; 12TH APRIL, 2007

P.C.;

1. The petitioner was granted adjournment by way of last chance on 23-3-2007 and the matter has come up for admission today. The learned counsel for the petitioner is absent.

2. With the assistance of the learned counsel for the respondent, I have gone through the record and the impugned order. The present petitioner and respondent no.3 were appointed as Assistant teachers/ lecturers in junior college. At the time of initial appointment, the petitioner so also the respondent no.3 were untrained teachers. While being in service both of them acquired the training qualification.

3. Perusal of the judgment of the school tribunal reveals that the petitioner/appellant before the tribunal had acquired qualification of diploma in higher education on 14-7-1982 whereas the respondent no.3 herein had acquired B.Ed. qualification in the year 1975. Assuming that the diploma in higher education is the qualification which is granted equivalent with B.Ed., it is crystal clear that the respondent no.3 had acquired the training qualification much before the petitioner trained himself by acquiring the diploma in higher education.

4. For the purpose of determination of seniority, entry in the category 'C' of Schedule F of MEPS Rules would be decisive. The respondent no.3 entered in category 'C' of schedule F in the year 1975 whereas the petitioner entered the said category in the year 1982. The issue in regard to the determination of seniority is no longer res-integra, and that has been concluded by a Division Bench Judgment of this court reported in **1889 Mh.L.J. page 951.** The Division Bench in the said judgment deduced the principles in regard to determination of seniority in para 23 of the judgment. As the respondent no.3 has trained himself prior in point of time and had entered category 'C' much before the petitioner entered the said category,

the tribunal has rightly held that the respondent no.3 to be senior to the petitioner. Hence the dismissal of the appeal by the tribunal does not warrant any interference, as the same does not suffer from any illegality. Writ petition is thus summarily dismissed.

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